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APRIL 17, 2024 BY RONNIE

Adam Skelly, Part 2: Swinwood Malpractice Claim

Ontario



Français

 Menu

Rep Name:	MICHAEL WILLIAM SWINWOOD		
Amount:	\$0.00	Case Opened Date:	2020-11-28
Most Recent Order Type:	Order	Most Recent Order Date:	2022-02-01
Next Event:	N/A	Next Event Date:	N/A

Ontario 		Français			
SKELLY	WILLIAM	CV23007019180000	Toronto	Skelly v. Swinwood et al	N
Surname/Business Name		Given Name		Type	
SKELLY		WILLIAM		Plaintiff	
SWINWOOD		MICHAEL		Defendant 1	
ELDERS WITHOUT BORDERS		N/A		Defendant 2	

Ontario 		Français		Menu	
SKELLY	WILLIAM	CV22006835920000	Toronto	SKELLY et al v. HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO et al	N
Rep Name:	IAN J. PERRY				
Amount:	\$0.00		Case Opened Date:	2022-06-30	
Most Recent Order Type:	N/A		Most Recent Order Date:	N/A	
Next Event:	Motion on notice		Next Event Date:	2024-10-01	

This is the second part on William Adamson Skelly, (a.k.a Adam Skelly). He made national headlines back in 2020, for refusing to capitulate to Doug Ford and Christine Elliott. A restraining order was granted against him in December, but a “come-back Motion” was allowed to go ahead to challenge it in an ad-hoc manner.

For background information on this, see [Part 1](#). It outlines many of the major events that led up to this moment. This is hardly exhaustive of what happened.

Anyhow, his highly anticipated challenge was derailed due to the gross incompetence of then lawyer Michael Swinwood. Despite all of the time, money and effort that had gone into the challenge, it didn’t follow the basics of procedure.

Specifically, the purpose of the come-back Motion was to challenge the December order. Instead, Swinwood filed a Motion for damages, something that wouldn’t have been allowed at this stage anyway. Justice Akbarali ruled that there was no jurisdiction to hear it, but gave permission to refile the papers correctly.

When a litigant wants to make changes to their Notice of Motion, the correct method is to serve an AMENDED Notice of Motion. Instead, a second Notice was issued, and it wasn’t clear which the Court was supposed to consider.

Neither Notice set out that the point of the Motion was to challenge the December order, and any basis for issuing it. That was brought up afterwards. And it’s pretty common knowledge that a Notice has to spell out what is being asked for.

Apparently, there was no Notice placed in the Motion Record (a book of documents), which is a pretty basic oversight.

Despite this being a *Motion*, Skelly was listed as an *Applicant* on Court documents. He should have been referred to as a *Moving Party*. Just because a Notice of Constitutional Question is included, it doesn't change this reality. Again, this is amateurish.

If damages were sought, then an "originating process" such as a Statement of Claim, or a Notice of Application would have to have been filed. This Motion was not the way to do it. Still Justice Akbarali allowed another attempt to fix things.

However, that never happened. So, what did Skelly do?

He sued his lawyer for negligence and professional malpractice, demanding \$200,000. It's always interesting to hear when such a thing happens. From the Statement of Claim:

22. In late 2020 or early 2021, Mr. Skelly learned about Mr. Swinwood and retained him to pursue a constitutional challenge against the public health measures.

23. Mr. Skelly was *under the impression* that Mr. Swinwood was not only a *reasonably competent lawyer but also one who had significant experience in constitutional and civil matters*.

24. Throughout the duration of his retainer, *Mr. Swinwood representing Mr. Skelly, acted with complete disregard for the Rules of Civil Procedure* and in a manner that can only be described as *completely incompetent and negligible*.

25. In an Endorsement of the Honourable Justice Myers dated February 26, 2021, His Honour reprimanded Mr. Swinwood for sending an unsolicited letter to Justice Kimmel asking that she remain seized of the matter. Justice Myers highlighted that she was never seized of the matter to begin with and explicitly ordered that *"Mr. Swinwood is to comply with Rule 1.09 in any future communication with the Court."*

26. In Her Honour's Direction dated March 9, 2021, the Honourable Justice Akbarali set out a timetable for the hearing of the constitutional issues raised by Mr. Skelly, with the hearing to take place on June 28 and 29, 2021 (the "June Hearing").

27. In the Direction, Justice Akrabali made a point to tell Mr. Swinwood to make sure he files his materials with ***the proper style of cause as the materials he submitted failed to do so***. A hearing for the come-back motion contemplated by Justice Kimmel and Mr. Skelly's constitutional challenge was scheduled for June 28 and 29th, 2021.

31. In her Endorsement dated June 28, 2021, ***Justice Akrabali pointed out various flaws in the***

steps taken by Mr. Swinwood resulting in the court not having the issues properly raised before it (the "June Endorsement"). These flaws are listed below:

- i. ***Not seeking to vary or set aside the Order of Justice Kimmel based on unconstitutionality in the Notices of Motion making it deficient rendering the proceeding procedurally unfair;***
- ii. Not properly placing the February Notice of Motion before Her Honour;
- iii. ***Not having the February Notice of Motion initially placed in the respondent's Motion Record*** and adding it only after the applicant brought up the issue in an attempt to fix the defect;
- iv. The relief in the February Notice of Motion is not ***based on any Notice of Constitutional Question;***
- v. ***Having two Notices of Motion for the same motion instead of amending the document;***
- vi. ***Not making it clear to Ontario which Notice of Motion the hearing was to proceed on;***
- vii. ***Not giving appropriate notice*** of the relief sought in the Notice of Motion;
- viii. The Notice of Constitutional Question ***did not raise the issue of setting aside the legislative scheme on the basis of unconstitutionality until its third iteration on June 8, 2021***, which was well after the date of cross-examinations and the finalization of the evidentiary record;
- ix. ***Neither Notice of Motion sought an Order setting aside the legislative scheme on the basis of unconstitutionality;***
- x. ***Failing to put before Her Honour the Affidavits of Service*** for Mr. Swinwood's June 24, 2021, Motion Record; and,
- xi. ***No originating process for the damages or declaration of invalidity sought.***

32. At paragraph 44 of Justice Akrabali's June Endorsement she states the following: ***"This is not a case where the respondents are self-represented parties. They were represented at the hearing by two counsel, at least one of whom has been practicing***

for many years. Earlier in the proceedings, when the Notices of Motion were being prepared, the respondents were represented by four counsel. ***I cannot explain why none of them considered these very basic issues, or if they did, why they did not address the deficiencies in the proceeding*** which could have been done easily and efficiently in February or March 2021...”

38. In the six months that passed Mr. Skelly obtained new counsel to issue the correct originating process ***Mr. Swinwood failed to issue and to bring Mr. Skelly’s challenge back for a hearing on the merits.***

39. During this time, ***neither Mr. Skelly nor his new counsel received any correspondence*** regarding the desire of Ontario to receive the December Costs

It’s hard to imagine that a veteran lawyer could repeatedly make such basic errors unless done intentionally. Not only did Swinwood mess up, he never went ahead with another attempt. He effectively let the case die. Even with the trouble and expense of having 6 expert witnesses, Swinwood didn’t try again.

The Notice of Constitutional Question (all iterations of it) were also very poorly written. Instead of briefly outlining the issues, Swinwood appears to try to turn it into a Factum and make full arguments. 27+ pages was excessive.

All sorts of theories were floated, including that Swinwood had been bribed and/or threatened. However, without proof, those are just theories.

To date, there has been no activity in this malpractice suit other than the Claim itself being issued.

Now, there is a new Application scheduled to go ahead in October 2024. The 1st, 2nd and 7th are set aside for it. The Concerned Constituents of Canada, or CCOC, is putting that together. Mootness may be an issue — or at least the Province will argue it — given how much time has passed, but we’ll have to see. The R.O.A. hasn’t been formally rescinded.

COURT DECISIONS:

- (1) Skelly – Restraining Order Deferred Matter
- (2) Skelly – Restraining Order Decision, December 2020

- (3) Skelly – Criminal Court Limits What He Can Post Online
- (4) Skelly – Judge Lacks Jurisdiction To Hear Case, June 2021
- (5) Skelly – Costs Of \$15,000 Ordered For Failed Motion
- (6) Skelly – Costs From 2020 Kimmel Decision, Previously Deferred
- (7) Skelly – Motion For Security For Costs Decision, September 2023

2020/2021 COURT DOCUMENTS:

- (1) Skelly – Application Record Restraining Order (Michael Swinwood)
- (2) Skelly – Notice of Constitutional Question (February)
- (3) Skelly – Amended Notice Of Constitutional Question (June)
- (4) Skelly – Book of Transcripts – Respondents (Applicants)
- (5) Skelly – Book of Transcripts – Respondent on Motion – HMTQ
- (6) Skelly – 2021 Motion Factum
- (7) Skelly – 2021 Motion Amended Factum – Respondents (Applicants)
- (8) Skelly – 2021 Motion Responding Factum
- (9) Skelly – 2021 Motion Reply Factum

- (1) Skelly – RBC Default Judgement Order

MALPRACTICE SUIT AGAINST MICHAEL SWINWOOD:

- (1) Skelly – Swinwood Malpractice Statement Of Claim

NEW APPLICATION DOCUMENTS:

- (1) Skelly – Notice Of Application (Ian Perry)
- (2) Skelly – Costs – Notice of Motion – Moving Party (Respondent) HMTK
- (3) Skelly – Costs – Motion Record-Moving Party (Respondent)
- (4) Skelly – Costs – Applicant Responding Motion Record Security For Costs
- (5) Skelly – Costs – Factum – Moving Party – HMK
- (6) Skelly – Costs – Responding Factum Applicants Skelly et al

EXPERT REPORTS:

- (1A) Skelly – Byram Bridle Resume
- (1B) Skelly – Byram Bridle Expert Report
- (1C) Skelly – Byram Bridle Expert Reply Report

- (2A) Skelly – Douglas Allen Resume
- (2B) Skelly – Douglas Allen Expert Report

(2C) Skelly – Douglas Allen Expert Report

(3A) Skelly – Gilbert Berdine Resume

(3B) Skelly – Gilbert Berdine Expert Report

(3C) Skelly – Gilbert Berdine Expert Reply Report

(4A) Skelly – Harvey Risch Affidavit

(4B) Skelly – Harvey Risch Expert Report

(5A) Skelly – Joel Kettner Resume

(5B) Skelly – Joel Kettner Expert Report

(5C) Skelly – Joel Kettner Expert Reply Report

(6A) Skelly – William Briggs Resume

(6B) Skelly – William Briggs Expert Report

(6C) Skelly – William Briggs Expert Reply Report

 **ADAM SKELLY, CANADA, CANADIAN DECISIONS, LAWFARE, SUBVERSION,
UN/WHO, VACCINES**